

May 31, 2002

Marlene H. Dortch
Secretary
Federal Communications Commission
TW-A325
445 Twelfth St., SW
Washington, DC 20554

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ORIGINAL
MEDIA
ACCESS
PROJECT

Re: *Ex parte* presentation in: MM Docket Nos. 93-254, 93-8, 99-360, 93-25
IB 98-21

Dear Ms. Dortch:

On May 31, 2002, Andrew Jay Schwartzman, President, Media Access Project (MAP), Cheryl A. Leanza, Deputy Director, MAP, and Harold Feld, Associate Director, MAP, met with Ken Ferree, Chief, Media Bureau (MB), Deborah Klein, Chief of Staff, MB, Bill Johnson, Deputy Chief, MB, and Bob Ratcliffe, Deputy Chief, MB.

The purpose of the meeting was to discuss the status of the above captioned proceedings and to urge the Bureau to resolve these long-time pending proceedings as quickly as possible.

MAP provided the MB staff with a list of outstanding proceedings. A copy of the list is attached.

In accordance with Section 1.1206(b), 47 C.F.R. § 1.1206, this letter is being filed electronically with your office today.

Respectfully submitted

Harold Feld
Associate Director

cc: Ken Ferree
Deborah Klein
Bill Johnson
Bob Ratcliffe

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**MEDIA ACCESS PROJECT
BRIEFING FOR MEDIA BUREAU ON OLD PROCEEDINGS**

MAP has a number of matters pending that now fall under the jurisdiction of the Media Bureau. Some of these matters have languished in their respective bureaus for years, and we hope that the consolidated Media Bureau will issue final orders on these "old business" items quickly.

SPONSORSHIP IDENTIFICATION: Federal law and the Commission's rules require that any time someone provides money or other valuable consideration in exchange for advertising, the sponsor must be identified.

Advertising Council Request for waiver of Section 317, Docket No. DA01-1169. Request by the Ad Council for waiver of sponsorship ID requirement under the Office of National Drug Control Policy matching program. No action taken since 2001.

PUBLIC INTEREST OBLIGATION: All users of the public airwaves have an obligation to serve the public interest. Several outstanding proceedings address public interest obligations of terrestrial broadcasters.

Commercial Limits Inquiry, Docket No. MM 93-254. Notice of Inquiry by the Commission reviewing its 1984 decision to deregulate limits on commercial time. No action taken since parties filed replies in 1994.

Home Shopping Network, Docket No. MM 93-8. The 1992 Cable Act directed the Commission to examine whether broadcasters that broadcast only program length commercials satisfy the public interest. In 1993, the Commission determined they did. MAP filed a Petition for Reconsideration. No action has been taken since MAP filed the Recon Petition in 1993.

DTV Public Interest Obligations, Docket No. 99-360. The FCC issued a NOI in December 1999. Replies were filed March 2000. The Commission held a hearing on certain issues raised in the summer of 2000. No action since then. As transition to DTV is an important goal of the Commission, the Commission should take steps to ensure that the public interest is protected.

THE FAIRNESS DOCTRINE: MAP continues to take the position that the Communications Act imposes certain obligations on broadcasters and that First Amendment requires the FCC to safeguard the public's "paramount" right to information from a diversity of sources.

Complaint of Orrin R. Ford, Docket No. 98080189-HC

In 1998, Orrin R. Ford filed a complaint under the "Personal Attack Rule." 47 CFR §73.1920. The MMB failed to resolve the complaint. In 2000, the Commission repealed the Personal Attack Rule in response to a writ of mandamus issued by the D.C. Cir. The MMB dismissed all pending Personal Attack Rule cases, including Ford's. Ford filed a petition for reconsideration on the grounds that

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the complaint had been valid when filed. This reconsideration petition remains pending.

DBS ISSUES: There are a number of proceedings pertaining to DBS that now fall under the jurisdiction of the Media Bureau.

Policies and Rules for the Direct Broadcast Satellite Service, Docket No. IB 98-21. In 1998, the Commission proposed moving the DBS rules from Part 100 to Part 25, and asked what, if any changes should be made to the DBS rules generally. No action has been taken on this item.

DBS Public Interest Set Aside, Docket No. MM 93-25. The 1992 Cable Act required DBS broadcasters to set aside spectrum for educational uses. The 1992 Cable Act also states that DBS broadcasters must comply with the same obligations as terrestrial broadcasters concerning candidates for public office. The International Bureau adopted rules to implement these requirements that varied considerably from those for terrestrial broadcasters. DBS broadcasters were relieved of a number of statutory requirements on the grounds that the DBS technology did not support advertising. Since then, the technology has changed and DBS broadcasters can, in fact, comply with their statutory obligations. Numerous petitions for reconsideration were filed in 1999. No action has been taken on the Petitions.

Furthermore, it is time to reevaluate the set-aside because the Commission's decision to give DBS operators full control over the set-aside leaves noncommercial programmers without recourse when DBS operators violate the rules. Long pending reconsideration petitions or the Echostar merger would give the Commission an opportunity to do this.